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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,176	01/22/2002	Marzio Leban	10013801-1	9505

7590 04/05/2004

HEWLETT-PACKARD COMPANY  
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EXAMINER

LE, HOA VAN

ART UNIT PAPER NUMBER

1752

DATE MAILED: 04/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/056,176	<b>Applicant(s)</b> LEBAN, MARZIO	
	<b>Examiner</b> Hoa V. Le	<b>Art Unit</b> 1752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

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A telephone call is made on 01 April 2004 to Mr. Craig Slavin at telephone No. 310-563-1458 to indicate that the Office action mailed on 09 March 2004 is vacated because (1) the statement of "reduced to practice" is premature, (2) no restriction is on the record and (3) all claims have been searched from the broadest claim 23 to all of the narrow claims.

II. Applicant's prior art submission filed on 22 January 2004 has been considered.

III. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-31 (from the broadest claim 23 to all of the narrow claims) are rejected under 35 U.S.C. 103(a) as being unpatentable over Harris et al (US 2001/0052433), Gamo et al (5,976,725) and Kelly et al (6,268,077).

Harris et al disclose, teach and suggest a replaceable or disposable electrochemical power container comprising a hydrogen or other source of fuel for a fuel cell and a rechargeable battery. Please see the whole disclosure of each of the applied reference, especially in Harris et al at figures 1 to 2 and their descriptions, paragraphs 0027 to 0042. Harris et al lack of portable or hand-held electrochemical sizes, materials and connections. For a portable or hand-held electrochemical size and materials and connections,...especially see Gamo et al at figures 1-10 and 13-25 and their description for means to supply fuel to a portable fuel cell, hydrogen and

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methanol are known fuel for a fuel cell col.1:27-28 and 51-53 and Kelley et al at the figures and their descriptions, col.2:30 to 3:30. The examiner is looking for an evidence of an unusual or unexpected result to early indicate an allowability of the claims. A careful studying of the invention in the instant application unveils that no new chemical ingredient or material is discovered or applied in the claims. It is considered as using the known and conventional materials with their known functional properties. Applicant is urged to provide a convincing evidence to the contrary. Since the above references are related to replaceable and disposable electrochemical power containers and their sizes, materials and connections, it would have been obvious to one having ordinary skill in the art to use or cite the known portable or hand-held electrochemical sizes, materials and connections from the secondary references for their known functional properties as disclosed, taught and suggested in the secondary references for the advantage of an obtaining an electrical current in the absence of a convincing evidence or unusual or unexpected result for a patentability of the claims. Applicant should show or provide a convincing evidence to the contrary for the patentability of the claims.

IV. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa V. Le whose telephone number is 571-272-1332.

The examiner can normally be reached from 6:00 AM to 4:00 PM on Monday though Thursday and about the same time of most Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark F. Huff can be reached on 571-272-1385

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Applicants may file a paper by (1) fax with a central facsimile receiving number 703-872-9306,

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hoa V. Le  
Primary Examiner  
Art Unit 1752

HVL  
01 April 2004

HOA VAN LE  
PRIMARY EXAMINER

A handwritten signature in black ink that reads "Hoa Van Le". The signature is written in a cursive, flowing style.